HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.4632 of 2006

Date of decision : 10.10.2006.

M/s Ganpati Service Station, Balaha Kalan .....Petitioner

versus

District Magistrate and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Arun Jain, Advocate for the petitioner.

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ORDER

HEMANT GUPTA, J. (Oral)

The plaintiff is in present revision petition aggrieved against the orders passed by the Courts below, whereby its application for ad-interim injunction restraining the respondents from opening the fuel filling station, was dismissed.

The sole argument of the learned counsel for the petitioner, is based on the instructions IRC 12, 1983, issued by the Ministry of Surface Transport (Roads Wing), which contemplates that clear distance between two adjacent fuel filling stations should not be less than 300 meters. Clause 4.2 contemplates that if for some reasons, two or more fuel filling stations are sited in close proximity, these should be grouped together and a parallel service road provided by way of common access to the Highway.

Learned counsel for the petitioner has vehemently argued that Clause 4.2 is proviso to the general rule and therefore, the competent

authority is to record sufficient reasons as to why two adjacent fuel filling stations are permitted.

However, I am unable to accept the arguments raised by the learned counsel for the petitioner. Once Clause 4.2 deals with the fuel filling stations in close proximity, therefore, such clause does not lay any absolute bar for setting up of the fuel filling station. Moreover, such instructions have been found to be directory. I do not find any illegality in the no objection granted by the District Magistrate.

In view of the above, I do not find any illegality or irregularity in the order passed by the learned Courts below which may warrant interference by this Court in its revisional jurisdiction.

Dismissed in limine.

It may be clarified that any observation while deciding the application for grant of ad-interim junction, is only for the purpose of deciding such application. The learned trial Court should decided the suit on merits in accordance with law.

(HEMANT GUPTA)
JUDGE

October 10, 2006.
**mohinder*